

REPUBLIC OF SOUTH AFRICA**IN THE HIGH COURT OF SOUTH AFRICA
(GAUTENG DIVISION, JOHANNESBURG)****CASE NUMBER: 25574/2014****DATE OF HEARING: 15 February 2023****DELETE WHICHEVER IS NOT APPLICABLE**REPORTABLE: NO
OF INTEREST TO OTHER JUDGES:NO_____
DATESIGNATURE

In the matter between:

POO MANJABUDI PATIENCE**Applicant**

and

TINZA LIFESTYLE ESTATE**First Respondent****STANDARD BANK SOUTH AFRICA****Second Respondent**

This judgment has been delivered by being uploaded to the caselines profile on at 10h00 and communicated to the parties by email.

JUDGMENT ON APPLICATION FOR LEAVE TO APPEAL

Sutherland DJP

- [1] This is an application for leave to appeal against a decision of Acting Judge Willis which he gave on 14 November 2017. The date today is 15 February 2023. The matter was set down by the First Respondent, Tinza Lifestyle Estate. The Second Respondent, Standard Bank of South Africa has not participated and abides by the decision of the Court. The notice of leave to appeal was prepared by the Applicant in person but was not proceeded with for various reasons which are unimportant at this time.
- [2] To contextualize what the application for leave to appeal is about, it relates to the refusal of a rescission order of a final order of sequestration given as early as 11 November 2015 which followed on a previous provisional sequestration order granted on 10 May 2015.
- [3] The origins of the controversy are related to the proprietorship of a house which regrettably, the Applicant had lost through an auction and in relation to the originating claim, she was indebted to the body corporate.

- [4] The position that presents itself to me is simply whether or not, another court will find material fault with the decision not to rescind the order of the final sequestration granted on 14 November 2017.
- [5] The Applicant has prepared an account in her application for leave to appeal which regrettably does not address the forensic issues which are pertinent to the decision I have to make and there is regrettably no merit in the Applicants application for leave to appeal.
- [6] It is indeed equally regrettable, that this matter has drifted for as long as it has and left the Applicant in a sort of limbo, but that, too, must come to an end.
- [7] I am satisfied that there are no prospects of success as contemplated by section 17 of the Superior Court Act 10 of 2013, and therefore, the appropriate order is to dismiss the application and as with regards to costs, the sensible order is to make the costs, costs in the sequestration.
- [8] As a result, the order is as follows:
- (1) The application for leave to appeal is dismissed.
 - (2) The costs of this application shall be costs in the sequestration.

Sutherland DJP

Heard: 15 February 2023
Judgment: 15 February 2023

The Applicant was represented in person

The Respondents was represented by Adv AG Campbell
Instructed by Heinrich Schmidt of Bennet McNaughton Attorneys.